
Standing Order: Judge Blanche M. Manning

(revised October, 2005)

I. Leave to File Motion Requirement for Motions to Dismiss, Remand, Change Venue, or for Judgment on the Pleadings or Summary Judgment

Parties will be required to obtain leave of court before filing: (1) a motion to dismiss (except a motion to dismiss that is in lieu of an answer); (2) a motion to remand; (3) a motion to change venue; (4) a motion for judgment on the pleadings; or (5) a motion for summary judgment. In order to obtain leave of court, the parties must comply with the following procedures. Failure to do so will result in the denial of the motion for leave to file.

- (a) Notice up a motion for leave to file on the appropriate motion day.
- (b) Before appearing on the motion for leave to file, the movant must send a letter of no more than two pages to the opposing party which explains the nature of the motion and cites the legal authorities in support of the motion. Under no circumstances shall parties send a copy of the letter to the court.
- (c) The parties should then meet and: (1) discuss the legal basis for the motion; and (2) exchange authorities.
- (d) After this meeting, if the movant still wishes to file the motion, a motion for leave to file should be presented to the court which advises the court that the above-specified meeting has occurred.

Upon presentment to the court of the motion for leave to file, the court will determine if the movant is in compliance with the above-referenced procedure. If so, the movant will be granted leave to file the motion by a date certain once the parties have exchanged their respective memoranda in support, in response, and in reply.

The actual motion shall only be filed after it is fully briefed. Each party shall be responsible for e-filing its own pleadings with the clerk's office and shall ensure that the court receives paper courtesy copies of those pleadings.

II. Discovery Scheduling and Motions

(a) 26(f) Conference & Initial Status Report

Within fourteen days after an answer or any responsive pleading has been filed, the parties must hold a discovery conference pursuant to Fed. R. Civ. P. 26(f). Within fourteen days thereafter, the parties must file a joint status report following the court's "Instructions for Initial Status Report." If a party believes that discovery should be stayed pending resolution of a motion to dismiss, a motion to stay discovery must be filed with the motion to dismiss (which will not be subject

to the prior approval requirement outlined above as the motion will be in lieu of an answer). Such motions are looked upon with disfavor and are only granted upon a showing of compelling reasons. The fact alone that a motion to dismiss is pending is generally insufficient to warrant a stay of proceedings.

(b) Extensions

Discovery dates set by the court are not suggestions. Extensions are disfavored, and will only be granted if exceptional circumstances exist. If a discovery extension has previously been requested, the motion shall set forth the date of the request and the court's ruling thereon.

A party is responsible for filing any necessary motions, such as a motion to compel, well before the discovery cut-off. Filing a motion to compel upon the close of discovery is not generally enough to warrant an extension unless the movant establishes that the facts which are the basis of the motion did not exist earlier or could not, with due diligence, have been known earlier.

(c) Discovery Motions

- (1) With regard to the filing of motions for discovery and production of documents under Fed. R. Civ. P. 26-37, the court will not hear or consider any discovery motions unless the parties have met and conferred regarding the discovery at issue and attempted to resolve the matter without judicial intervention. *See* Fed. R. Civ. P. 37(a)(2).
- (2) To satisfy this requirement, all motions for discovery and production of documents under Rules 26 through 37 of the Federal Rules of Civil Procedure, must include a statement:
 - (i) that after consultation in person or by telephone and good faith attempts to resolve differences they are unable to reach an accord;
or
 - (ii) counsel's attempts to engage in such consultation were unsuccessful due to no fault of counsel's.
- (3) Where the consultation occurred, this statement shall recite, in addition, the date, time and place of such conference, and the names of all parties participating therein. Where counsel was unsuccessful in engaging in such consultation, the statement shall recite the efforts made by counsel to engage in consultation.
- (4) Failure to comply with this rule will result in the imposition of sanctions.

III. Format Requirements for Summary Judgment Motions

- (a) Responses and replies submitted pursuant to Local General Rule 56.1(a) and (b) shall reproduce the paragraph of the opposing party's Local General Rule 56.1 submission to which they respond.
- (b) Multi-page exhibits submitted in connection with a Local General Rule 56.1 submission shall be paginated if they are not already numbered. The parties shall provide citations to the appropriate page of the exhibit in their filings. (Example: If Exhibit A is 40 pages, counsel should number it A-1 through A-40 and cite to the specific page of Exhibit A in its memoranda and Local General Rule 56.1 submissions).

IV. Bench Trials

The parties must order the transcript upon the completion of the trial. Thirty-five days after completion of the transcript, the parties must file proposed findings of fact and conclusions of law with citations to the record. Responses to proposed findings of fact and conclusions of law are due thirty days thereafter. A reply, if any, is due fourteen days thereafter.

V. Miscellaneous

It is the responsibility of all counsel and pro se litigants to promptly advise the court of any changes in addresses or phone numbers.